IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

OP.No. 19809 of 1997(G)

PETITIONER:

K.P.MATHEW, KUNNATH HOUSE,
MARKET ROAD, KANJIRAPPALLY,
KOTTAYAM DISTRICT.

BY ADV. SRI.M.K.DILEEP KUMAR

RESPONDENTS:

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1) **THE APPELLATE AUTHORITY (LAND REFORMS), THRISSUR.**

2) **P.I.THOMAS, PALLIVATHUKKAL, KOKKAPALLY, KANJIRAPALLY, KOTTAYAM DISTRICT.**

3) **P.I.JOSEPH, PALLIVATHUKKAL, KOKKAPALLY, THURUTHIPADOM, KOOVAPPALLY, KOTTAYAM DISTRICT.**

4) **P.I.ABRAHAM, DO. DO.**

5) **P.I.MATHEW, PALLIVATHUKKAL, MOKKAPALLY, PALAMPARA, KOTTAYAM DISTRICT.**

6) **P.I. JOHN, DO. DO.**

R1 BY GOVT. PLEADER SMT.SUDHA DEVI
R2 BY ADV.SRI.N.A.AUGUSTINE
R5 BY ADV. SRI.M.V.JOSEPH

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.35509 OF 1997 IN OP.No.19809 OF 1997-G.

DISMISSED.

22-6-2007. **Sd/-T.R. Ramachandran Nair, Judge.**

PETITIONER'S EXHIBITS:-

P1: **Copy of the order dated 8-5-1997 of the first respondent in AA.No.83/1993.**

P2: **Copy of the proceedings paper of the first respondent, in AA.No.83/1993 (relevant extract).**

RESPONDENTS' EXHIBITS:-

Exhibit of Respondents 2 to 6:-

R2(a): **True copy of the order dated 7-6-1971 in OA.No.45/70 of the Land Tribunal, Palai.**

(true copy)

kvs/-

P.A. To Judge.

T.R.RAMACHANDRAN NAIR, J.

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O.P.19809.No. of 1997-G.

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Dated this the 22nd day of June, 2007.

J U D G M E N T

The petitioner is the sole respondent in AA.No.83 of 1993 of the Appellate Authority (Land Reforms), Thrissur. The appeal was filed by the respondents 2, 3, 4, 5 & 6 against the order of the Land Tribunal, Palai in OA.No.36 of 1986. The Land Tribunal found in favour of the petitioner and upheld his claim as a Kudikidapukaran.

2. The complaint in the writ petition is that the Appellate Authority allowed the appeal as per Ext.P1 judgment without hearing the petitioner. The petitioner has produced Ext.P2 proceedings paper of the Appellate Authority. Ext.P1 shows that the appeal was finally heard on 29-4-1997. According to the petitioner, Ext.P2 will show that on 15-4-1997 the appeal was partly heard and on the request of the counsel for the petitioner it was adjourned to 22-4-1997. It was adjourned thereafter to 29-4-1997. On that day the counsel for the petitioner could not reach in time and after noting his absence the case was posted for orders to 3-6-1997. It was called on 30.4.1997 and was posted to 8.5.1997. It is stated that on 8.5.1997 even though the petitioner's counsel was ready to argue the matter straight away the appeal

was allowed by pronouncing the judgment.

3. The second respondent has filed a counter-affidavit in the matter. In the counter-affidavit the stand taken is that the petitioner is not entitled to the benefit of a kudikidapukaran. The said question need not be decided here now in view of the order I propose to pass. Petitioner wants only an opportunity to argue the matter. Since the appeal was disposed of without hearing the counsel for the petitioner it is only in the interest of justice to allow a further opportunity to the petitioner. Therefore, Ext.P1 is set aside and the first respondent is directed to rehear AA.No.83 of 1993 with notice to all the parties. Fresh orders will be passed accordingly as expeditiously as possible.

The writ petition is disposed of as above.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-